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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,923	10/23/2000	Yoshiji Hamada	K-1934	8351

7590 02/13/2003

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EXAMINER	
TRAN LIEN, THUY	
ART UNIT	PAPER NUMBER
1761	4

DATE MAILED: 02/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/693,923	Applicant(s) Hamada et al
	Examiner Lien Tran	Art Unit 1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Oct. 23, 2000* .

2a) ☐ This action is **FINAL.** 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-8* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

1. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1: Line 1, what does applicant mean by " for a rice cracker"? Does applicant mean to say " to a rice cracker"? Lines 2-5 are indefinite; while the preamble recites a method for applying a sauce for a rice cracker, the steps refer to coating the surface of a baked dough and there is no reference to rice cracker. The body of the claim does not commensurate with the preamble. Line 3, the term " soft-baked type" is indefinite because it is not known what would be considered as soft-baked type; also, the phrase " fat and oil component" is confusing because oil is a fat and the specification does not disclose the combination of different fat and oil. Line 5, the phrase " fat and oil component" has the same problem as line 3.

In claim 2, line 1 has the same problem as line 1 of claim 1. Line 2, " the specific volume" does not have antecedent basis.

In claim 3: Line 2, " the viscosity" does not have antecedent basis.

Claim 4 has the same problem as claim 1.

Claims 5-6 have the same problem as claims 2-3.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okayama in view of Fujita et al, Alexander et al and applicant's admission of prior art.

Okayama discloses a rice cookie made from a baked dough containing rice flour. The cookie has a soft texture compared to rice crackers and a variety of flavorings can be coated or sprayed onto the surface to produce different flavors of cookies. The cookie is improved by the addition of flavorings such as soy sauce, sweet sake, garlic etc... (See column 1-3)

Okayama does not disclose coating with a fat and oil component, the specific volume and using an emulsified sauce.

Fujita et al an emulsified sauce containing a fat or an oil, soy sauce and emulsifier. The sauce is used to flavor food or improve the properties thereof. The sauce is stable and readily redispersed by simply stirring or shaking. (See columns 1-2)

Alexander et al teach to coat food product with oil slurry to provide fatty mouth feel, to provide a means to adhere flavor premix and to contribute to an extension in the shelf life of the product. (See col. 6 line 65 through col. 7 line 5)

Applicant discloses on page 2 of the specification that it is known to coat rice confectionery with fats and oils for enhancing the gloss of the products and preventing soaking of an aqueous seasoning solution therein.

It would have been obvious to one skilled in the art to coat the rice cookie of Okayama with fat and oil before applying flavoring for the reasons taught by Alexander et al and for the reason known in the art as disclosed by applicant on page 2. It would also have been obvious to one to use the emulsified sauce taught by Fujita et al because they disclose such sauce gives improved flavor and stability and Okayama teaches to coat the cookie with flavoring such as soy sauce. Fujita et al use different emulsifier and fat; however, such difference is not patentably significant because the fat and emulsifier claimed are all known and it would have been a matter of preference depending on the desired taste and flavor to select different fat and emulsifier. It would also have been obvious to vary the viscosity of the sauce depending the fluidity desired. If a thick sauce is desired, then it would have been obvious to have greater viscosity or vice versa or any intermediate. The cookie of Okayama is soft rice cookie as opposed to the hard rice cracker; thus, it is expected the specific volume is similar to the one claimed because the specific volume is related to the soft or hard texture. However, if the specific volume is not similar, such difference is not patentably significant because it would have been obvious to formulate the product to have

different specific volume depending on the texture desired. For example, if a soft texture is wanted, then the specific volume would be greater than if a harder texture is desired.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yamaguchi et al disclose food material for puffing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Tran whose telephone number is 703-308-1868. The examiner can normally be reached on Wed-Fri. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

February 9, 2003

LIEN TRAN
PRIMARY EXAMINER
Group 1700